

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

AMO DEVELOPMENT, LLC, )  
AMO MANUFACTURING USA, LLC, )  
and AMO SALES AND SERVICE, )  
INC., )

Plaintiffs, )

v. )

C.A. No. 20-842-CFC-JLH

ALCON VISION, LLC, ALCON )  
LABORATORIES, INC., and ALCON )  
RESEARCH, LLC, )

**JURY TRIAL DEMANDED**

Defendants. )

---

ALCON, INC., ALCON RESEARCH, )  
LLC and ALCON VISION, LLC, )

Counterclaim-Plaintiffs, )

v. )

AMO DEVELOPMENT, LLC, )  
AMO MANUFACTURING USA, LLC, )  
AMO SALES AND SERVICE, INC. )  
and JOHNSON & JOHNSON )  
SURGICAL VISION, INC., )

Counterclaim-Defendants. )

**ALCON’S MOTION TO PRECLUDE CERTAIN EXPERT TESTIMONY  
(NO. 3) OF MR. NIKOLAUS BAER**

Pursuant to Federal Rules of Evidence 702 and 703, Defendants Alcon Vision, LLC, Alcon Laboratories, Inc. and Alcon Research, LLC (“Alcon”) respectfully

move to preclude Plaintiffs AMO Development, LLC, AMO Manufacturing USA, LLC, and AMO Sales and Service, Inc.'s ("J&J") expert Mr. Nikolaus Baer from testifying regarding his conclusions about whether Alcon infringed J&J's copyrights, whether two works are substantially similar, and whether J&J's works are protectable. The grounds for this motion are set forth in Alcon's opening brief, filed herewith. Pursuant to D. Del. LR 7.1.1, counsel certifies that reasonable efforts have been made to reach agreement on the subject of this motion.

WHEREFORE, Alcon respectfully requests that the Court grant this motion and enter the attached proposed order.

Respectfully Submitted,

/s/ Andrew E. Russell

John W. Shaw (No. 3362)  
Karen E. Keller (No. 4489)  
Andrew E. Russell (No. 5382)  
Nathan R. Hoeschen (No. 6232)  
SHAW KELLER LLP  
I.M. Pei Building  
1105 North Market Street, 12th Floor  
Wilmington, DE 19801  
(302) 298-0700  
jshaw@shawkeller.com  
kkeller@shawkeller.com  
arussell@shawkeller.com  
nhoeschen@shawkeller.com  
*Attorneys for Alcon Inc., Alcon Vision,  
LLC, Alcon Laboratories, Inc. and  
Alcon Research, LLC*

OF COUNSEL:

Jeanne M. Heffernan  
KIRKLAND & ELLIS LLP  
401 Congress Avenue  
Austin, TX 78701  
(512) 678-9123

Gregg F. LoCascio  
Sean M. McEldowney  
Noah S. Frank  
KIRKLAND & ELLIS LLP  
1301 Pennsylvania Avenue, NW  
Washington, DC 20004  
(202) 389-5000

Joshua L. Simmons  
KIRKLAND & ELLIS LLP  
601 Lexington Ave  
New York, NY 10022  
(212) 390-4573

Kristen P.L. Reichenbach  
KIRKLAND & ELLIS LLP  
555 California Street  
San Francisco, CA 94104  
(415) 439-1400

Caroline Lourgou  
KIRKLAND & ELLIS LLP  
300 North LaSalle  
Chicago, IL 60654  
(312) 862-2000

Dated: August 19, 2022